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Human rights situation in Palestine and other occupied Arab territories

Implementation of Human Rights Council resolutions S-9/1 and S-12/1

Report of the Office of the United Nations High Commissioner for Human Rights*

Summary

The present periodic report, the tenth submitted by the United Nations High Commissioner for Human Rights on the Implementation of Human Rights Council resolutions S-9/1 and S-12/1 covers the period from 1 November 2016 to 31 October 2017. It provides an overview of human rights issues in the Occupied Palestinian Territory, in particular, excessive use of force, arbitrary detention, torture and ill-treatment, restrictions on the freedoms of movement, expression, peaceful assembly and association and the pervasive lack of accountability for violations of international human rights law and international humanitarian law. The report makes recommendations to the main duty bearers concerned, namely, the Government of Israel, the Government of the State of Palestine and the authorities in Gaza.

* The present report was submitted after the deadline in order to reflect the most recent developments.

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I. Introduction

1. The present periodic report, the tenth submitted by the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1 provides an overview of the human rights situation in the Occupied Palestinian Territory, covering the period from 1 November 2016 to 31 October 2017. It should be read in conjunction with the latest reports of the Secretary-General to the General Assembly on Israeli Practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem (A/72/565) and on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan (A/72/564) and with the reports of the High Commissioner for Human Rights to the thirty-seventh session of the Human Rights Council submitted pursuant to its resolutions 34/30 and 34/31.

2. The information contained in this report is largely drawn from human rights monitoring conducted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the Occupied Palestinian Territory. The report also reflects information obtained from government sources, other United Nations entities and non-governmental organizations (NGOs).

3. The reporting period coincided with the fiftieth year of the Israeli occupation of the Occupied Palestinian Territory and the tenth year of the blockade of Gaza. It was marked by an increase in settlement activity and related violations of international humanitarian law and international human rights law, particularly in Area C of the West Bank, East Jerusalem and the H2 zone of Hebron. Israeli military order No. 1789, issued on 31 August 2017, consolidated the settlements in the H2 zone by upgrading their legal status and was accompanied by a visible increase in the presence of the Israeli security forces, settler violence and movement restrictions that had a negative impact on the enjoyment of economic and social rights.

4. The Israeli blockade of Gaza, which amounts to the collective punishment of the population of Gaza,[1] entered its eleventh year, with continuing violations by Israel of its obligations as the occupying Power, including with regard to human rights. Freedom of movement and access to basic services remained severely compromised, as did the availability of potable water, electricity, fuel, medical supplies and materials needed to reconstruct buildings and homes damaged or destroyed during previous military escalations. Over the spring and summer of 2017, the Palestinian Authority introduced various restrictive measures that exacerbated the difficulties experienced by the population of Gaza. These included reducing payments to Israel for electricity, limiting the number of medical referrals for patients from Gaza to Israel and to the West Bank, including East Jerusalem, cutting the salaries of Gaza's public sector workers and placing many on early retirement. On 12 October 2017, Hamas and Fatah signed a reconciliation agreement in Cairo, which was aimed at ending the 10-year divide between the two organizations and paving the way for a government of national consensus. The indiscriminate firing of rockets by Palestinian armed groups towards Israel remained a concern.

5. Excessive use of force in the context of law enforcement, including possible instances of unlawful killings, remained of serious concern. Attempts by Israel to impose controls over access to the Al-Aqsa Mosque in July 2017, following an attack by Palestinian citizens of Israel, sparked a wave of protests across the Occupied Palestinian Territory that resulted in six fatalities and a large number of injuries among Palestinians due to the response of the Israeli security forces.[2] The number of incidents of arbitrary detention remained high and OHCHR closely monitored developments around the hunger

[1] See A/HRC/34/36, para. 36 and A/HRC/24/30, para. 22.

[2] See www.ochaopt.org/content/protection-civilians-report-18-31-july-2017.

strike undertaken by a large number of Palestinian prisoners in Israeli prisons for over 40 days, from April to May 2017.[3]

6. There was a marked restriction of civic space, with limitations on and violations of the rights to the freedoms of opinion and expression, association and peaceful assembly. All three duty bearers, the Government of Israel, the Palestinian Authority and the authorities in Gaza, took legal and practical measures to restrict the functioning of independent media outlets and NGOs. Human rights defenders faced harassment, arrest and travel restrictions.

7. A climate of almost-total impunity for past and ongoing human rights violations continued to prevail. A dedicated report reviewing the status of recommendations addressed to all parties since 2009 related to ensuring accountability and justice for violations of international law in the Occupied Palestinian Territory, including East Jerusalem, was presented to the Human Rights Council in June 2017. It highlighted that, of the 253 recommendations on access to justice and accountability presented to the duty bearers since 2009, only 19 had been fully or partially implemented.[4] There were no positive developments in that regard during the reporting period.

II. Legal framework

8. International human rights law and international humanitarian law are applicable in the entirety of the Occupied Palestinian Territory, namely Gaza and the West Bank, including East Jerusalem. A detailed analysis of the legal obligations of the three duty bearers is contained in a report of the Secretary-General on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem, of 13 April 2017, and remained applicable for the duration of the reporting period.[5]

III. Violations of international human rights law and international humanitarian law in the Occupied Palestinian Territory by all duty bearers

A. Israel

1. Obligations of the occupying Power under international humanitarian law

9. The situation in the Occupied Palestinian Territory is characterized by the systematic disregard by Israel of the law of occupation and its obligations as an occupying Power, including the guiding principle whereby the status quo ante should be preserved as far as possible.[6] Violations by Israel of the fundamental provisions of the law of occupation continued during the reporting period.

10. Settlement expansion activity accelerated during the reporting period, with almost 10,000 housing units advanced by means of land designation or allocation, planning and zoning, the issuance of tenders and permits, or actual construction starts.[7] These measures were accompanied by the proposal or advancement of several draft laws in the Knesset aimed at retroactively legalizing the existing outposts, changing the status of Jerusalem, and, through political statements at the highest levels, promising the allocation of resources to consolidate settlements. These developments are described in detail in the report of the High Commissioner submitted pursuant to Human Rights Council resolution 34/31.[8] Settlements amount to the transfer of the population of Israel into the territory it occupies. The transfer of parts of an occupying Power's own civilian population into a territory it

[3] Reported in detail in A/72/565, paras. 38–40.
[4] See A/HRC/35/19, para. 14, table 3.
[5] See A/HRC/34/38, paras. 3–12.
[6] See A/HRC/34/38, paras. 13–14.
[7] See A/HRC/37/43, paras. 5–8.
[8] See A/HRC/37/43.

occupies is a serious violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) and is considered a war crime.[9] In addition, settlement expansion is connected to a number of other violations of international humanitarian law and has severe repercussions on human rights, as examined below.

11. During the reporting period, 488 structures were demolished or seized in the West Bank, including East Jerusalem, displacing 684 persons, including 383 children.[10] After record high numbers registered in 2016 and during the first quarter of 2017, there was a significant decrease in demolitions and seizures during the latter half of the reporting period. Most of the demolitions were carried out due to the lack of required building permits from the Israeli authorities. In that regard, it is recalled that the Secretary-General has previously noted that the zoning and planning regime in the West Bank, as well as in East Jerusalem, is restrictive, discriminatory and incompatible with requirements under international law,[11] making it virtually impossible for Palestinians to obtain building permits. The structures demolished during the reporting period included 125 donor-funded structures provided as humanitarian assistance to vulnerable communities, including three schools demolished at the beginning of the school year, in August 2017.

12. Practices that, in many cases, constitute collective punishment continued. The blockade of Gaza, which amounts to collective punishment of the population of the Gaza Strip,[12] entered its eleventh year. In the occupied West Bank, including East Jerusalem, measures amounting to collective punishment of family members, neighbourhoods and villages of attackers (or alleged attackers) included the withholding of the bodies of attackers or alleged attackers killed in attacks, punitive demolitions and sealing of houses, punitive revocation of work permits or of East Jerusalem residency status, and punitive confiscation of property. Many of these measures were reported in detail by the Secretary-General in October 2017.[13]

13. In an illustrative case monitored by OHCHR, the Israeli authorities took a series of collective punishment measures following the killing of an Israeli Border Police officer, on 16 June 2017, in Jerusalem, by three Palestinians from the village of Deir Abu Mash'al. The attackers were killed by the Israeli security forces, who retained their bodies,[14] blocked all movement into and out of Deir Abu Mash'al for a week and the movement of boys and men aged between 15 and 25 years for a further week, conducted violent raids on houses in the village and confiscated about 60 cars. Moreover, the work permits of approximately 150 relatives of the attackers were revoked, as was a permit allowing the mother of one of the attackers to visit her other son, held in Israeli detention. On 10 and 17 August 2017, the Israeli security forces demolished three houses belonging to the families of two of the attackers, leaving 14 persons, including 5 children, homeless. Punishing family members of attackers and entire communities for acts they did not commit amounts to collective punishment and is expressly prohibited by international humanitarian law.[15] It also violates several human rights, including due process guarantees such as the principle of individual responsibility and the presumption of innocence.[16]

[9] Fourth Geneva Convention, arts. 49 (6) and 147; Rome Statute of the International Criminal Court, art. 8 (2) (b) (viii).

[10] Office for the Coordination of Humanitarian Affairs (OCHA) data, communication to OHCHR.

[11] See A/HRC/34/38, para. 26, with references.

[12] See A/HRC/34/36, para. 36 and A/HRC/24/30, para. 22.

[13] See A/72/565, paras. 18–27).

[14] The bodies remained held by Israel as of 31 October 2017.

[15] Regulations respecting the Laws and Customs of War on Land, art. 50; and Fourth Geneva Convention, art. 33.

[16] International Covenant on Civil and Political Rights, arts. 12, 14 and 17; see also Fourth Geneva Convention, arts. 71–73.

14. As of the end of the reporting period, Israel continued to withhold the bodies of 15 Palestinians,[17] despite a ruling issued by the Supreme Court of Israel on 25 July 2017, declaring that the Israeli authorities have no authority to hold bodies.[18]

15. Demolitions, collective punishment and other measures, such as forced evictions and restrictions on freedom of movement and the failure to provide protection from attacks by settlers, constitute violations of international law and contribute to the creation of a coercive environment, which may lead to the forcible transfer of the protected population. During the reporting period, such coercive environment factors increased, particularly in the periphery of Jerusalem and in Hebron's H2 zone, heightening the risk of forcible transfer of several communities and individuals.[19]

2. Recurring human rights violations

Violations of the rights to life and security of person

16. Excessive use of force, including unlawful killings by the Israeli security forces, remained a serious concern in the Occupied Palestinian Territory. As in previous reporting periods, in several instances, it appeared that the use of firearms was not limited to a measure of last resort in situations posing imminent threat to life or serious injury, as required by international law.[20] The recurrence of such cases, as well as the consistent failure to investigate and prosecute those responsible, suggests a permissive policy towards such practices. An additional concern in such cases was reported delays or even denial of medical assistance to those injured which, in some instances, led to the death of victims who might have otherwise survived.

17. In Gaza, the Israeli security forces continued to use live ammunition to enforce restrictions within the Israeli-designated "access restricted areas", on land and at sea. During the reporting period, 5 Palestinians, including 2 children, were killed, and 67 Palestinians, including 16 children, were injured on land by live ammunition. At sea, 1 fisherman was killed and 6 were injured by live ammunition.[21]

18. On 28 July 2017, a 16-year-old, Abed El Rahman Husein Abu Hamisaa, was shot in the chest during a protest at Al-Boureij camp, approximately 50 m from the fence separating Israel and Gaza. He died on his way to hospital. Two of his friends were shot at with live ammunition while attempting to rescue him and both sustained leg wounds. There was no indication that the boys posed any imminent threat to the members of the Israeli security forces stationed at the fence when they were shot.[22] In another case, on 9 June 2017, a 19-year-old man was killed, approximately 150 m from the fence east of Jabalia. He was watching the protests taking place at the fence when, without warning, he was shot in the head by an Israel Defence Forces soldier and died instantly.[23]

19. On 15 May 2017, a 25-year-old man, Muhammad Majid Fadil Bakr, was killed while working on his fishing boat, approximately three nautical miles off the coast of Gaza. Reportedly, the Israeli navy used a loudspeaker to issue warnings instructing Mr. Bakr to stop the boat, while opening fire. The boat continued moving until a bullet hit the engine. The Israeli navy continued to fire, shooting Mr. Bakr in the back as he was trying to protect the engine. The Israeli security forces immediately took him to the Barzilai medical centre in Ashqelon, where he was pronounced dead.

20. In the occupied West Bank, including East Jerusalem, 50 Palestinians, including 12 children, were killed by the Israeli security forces in the context of law enforcement during the reporting period. Of those persons, 28 were killed while carrying out, or allegedly

[17] OHCHR monitoring and Jerusalem Legal Aid and Human Rights Centre, communication to OHCHR.
[18] See www.adalah.org/en/content/view/9167.
[19] See A/HRC/37/43, in particular paras. 12–14 and 24–25.
[20] Code of Conduct for Law Enforcement Officials, arts. 2–3 and Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principles 5, 9 and 13–14.
[21] OHCHR monitoring.
[22] OHCHR monitoring.
[23] OHCHR monitoring.

carrying out, attacks against Israelis, mostly members of the Israeli security forces. Moreover, 4 Palestinians were killed by Israeli settlers and 1 Palestinian was killed by the Israeli security forces in Israel in response to a stabbing attack.[24]

21. There was a peak in casualties in the context of the large-scale protests against the announcement by Israel of restrictions on access to the Al-Aqsa Mosque, in July 2017. The restrictions followed the killing of two Israeli police officers by three Palestinian citizens of Israel in the mosque's compound, on 14 July 2017. While mainly peaceful, some of the protests turned into clashes. The response by the Israeli security forces raises concerns as to the use of excessive force in law-enforcement operations.

22. For example, on 21 July 2017, Palestinian protesters and Israeli Border Police officers clashed in Abu Dis. While most of the protesters fled, a small group of young men and boys clashed with the Border Police officers, throwing stones at them. The officers first responded with stun grenades and rubber bullets and then started firing live ammunition. Seventeen-year-old Mohammed Khalaf Mahmoud Khalaf Lafi, the last protestor to flee the scene, was shot in the back. Footage captured by a surveillance camera shows him running away and being shot at a distance of approximately 50 m from the Border Police, apparently posing no threat to the security forces. The boy was taken to hospital, but died of his wounds.[25]

23. The Israeli security forces raid on Al-Maqased Hospital in East Jerusalem, on 21 July 2017, is particularly concerning. The Israeli security forces stormed the hospital in an attempt to arrest Muhammad Abu Ghanam, a 20-year-old Palestinian previously wounded by live ammunition fired by members of the Israeli security forces in the context of clashes in the Al-Tur neighbourhood. Numerous Israeli soldiers entered the hospital compound using stun grenades and sponge-tipped bullets to overcome hospital guards and youth in the courtyard. Inside the hospital, medical staff were in the process of transferring Mr. Abu Ghanam to emergency surgery when members of the Israeli security forces entered the corridor and violently struggled with the medical staff during an attempt to seize Mr. Abu Ghanam, physically assaulting a doctor, a paramedic, an administrative employee of the hospital and several bystanders. Medical staff managed to move Mr. Abu Ghanam to an adjacent room and attempted to save his life, before declaring him dead.[26] Fearing that the body would be seized by the Israeli security forces, the family reportedly immediately removed it from the hospital over a back fence. The case raises strong concerns as to the excessive use of force in law enforcement operations and interference in medical care that might endanger the life or lead to the death of seriously injured patients, in violation of the right to life and physical integrity.

24. Instances of excessive use of force during the reporting period were not limited to incidents in the context of protests. For instance, on 28 July 2017, at a roundabout near Gush Etzion, 26-year-old Abdallah Taqatqa was shot in the back by the Israeli Defence Forces from a range of approximately 25 m. According to eyewitnesses interviewed by OHCHR staff, as he was lying on the ground injured, a soldier turned him over and shot him in the chest from close range, killing him. The Israeli Defence Forces claimed that the victim had been neutralized during a stabbing attempt. However, two eyewitnesses reported that the victim was walking away from a group of seven or eight Israeli Defence Forces soldiers when first shot and that the soldiers surrounded him before the second shot. They also reported that nothing was found in the hands or in the vicinity of the victim to suggest that he was attempting to stab the soldiers or posed any imminent threat.

25. In a number of cases of settler violence, Israel failed to uphold public order and safety and to protect Palestinians in accordance with its obligations as an occupying

[24] OCHA, communication with OHCHR, 15 December 2017.

[25] OHCHR monitoring; also see www.dci-palestine.org/israeli_forces_kill_17_year_old_amid_clashes_over_access_to_holy_site.

[26] OHCHR monitoring; see also www.btselem.org/press_releases/20170810_police_raid_east_jerusalem_hospital.

Power.[27] During the reporting period, there were 147 incidents of settler violence resulting in casualties among Palestinians or damage to their property: 3 Palestinians were killed and 75 injured, including 19 children, in such incidents.[28] Although often present at the time of such incidents, the Israeli security forces frequently failed to provide protection. Moreover, in many of the cases, either no investigation was carried out, or investigative proceedings were closed due to apparent shortcomings in their conduct.[29] Cases demonstrating the type of violence and the failure by the occupying Power to provide safety and security for the Palestinian population have been described in detail in the report of the High Commissioner submitted pursuant to Human Rights Council resolution 34/31.

Arbitrary detention, torture or other cruel, inhuman or degrading treatment

26. Arbitrary detention of Palestinians by the Israeli authorities, including the practice of administrative detention, including of children, continued to be a major concern during the reporting period. According to official data provided by the Israel Prison Service, as of 30 June 2017, 5,916 Palestinians, including 318 children, were in Israeli detention. This included 444 individuals in administrative detention, among them 2 children. Official numbers as of 31 October 2017 were not available, but according to joint reports of Palestinian human rights organizations, an estimated 6,300 Palestinians, including at least 250 children, were in Israeli detention at the end of the reporting period, including about 450 in administrative detention.[30]

27. Concerns related to arbitrary detention are examined in further detail in the report of the High Commissioner to the Human Rights Council on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem (A/HRC/37/42).

28. Reported incidents of ill-treatment of Palestinians in Israeli detention remained of concern. While no official statistics are available, the Public Committee Against Torture in Israel, an Israeli NGO, processed 107 allegations of ill-treatment during the reporting period.[31] In one case documented by OHCHR, on 6 November 2016, the Israeli security forces carried out a raid on the house of a 52-year-old man with disabilities at the Aida refugee camp, near Bethlehem, allegedly in order to put pressure on his son, who was being detained and interrogated by the Israeli security forces at that time. Although the man suffered from paralysis in his limbs and, according to eyewitnesses, did not resist arrest, he was subjected to violent and humiliating treatment, blindfolded and handcuffed. He was questioned about his son and eventually released with the explanation that it was a case of a mistaken identity.[32]

29. Frequent night raids and house searches by the Israeli security forces across the West Bank, including East Jerusalem, continued during the reporting period, in particular in communities located near settlements or settler roads and in the villages of alleged attackers or of individuals known for holding demonstrations. In some cases, the raids, typically carried out between 2 and 4 a.m., were conducted with the purpose of making arrests, including of children, often on allegations of stone-throwing. In many other cases, members of the Israeli security forces raided private homes in full combat gear, armed and with their faces covered, without a clear reason, causing panic and terror among the families affected. In addition to raising concerns about the excessive use of force and possible violations of the right not to be subjected to arbitrary or unlawful interference with one's privacy, family

[27] Fourth Geneva Convention, art. 27 (1) and (2); Regulations respecting the Laws and Customs of War on Land, art. 46; see also A/HRC/34/38, para. 36.

[28] OCHA data shared with OHCHR.

[29] See www.yesh-din.org/en/data-sheet-december-2017-law-enforcement-israeli-civilians-west-bank/.

[30] Joint reporting by the Prisoner Support and Human Rights Association, Al Mezan Center for Human Rights and the Palestinian Prisoners Club, communication to OHCHR, 5 December 2017.

[31] Communication between the Public Committee Against Torture in Israel and OHCHR, 5 December 2017. The number includes Palestinians from Gaza and the West Bank, including East Jerusalem, and excludes Palestinian citizens of Israel.

[32] OHCHR monitoring.

and home,[33] this practice may also be in contravention of the obligation to treat the protected population humanely.[34]

Lack of access to justice and accountability

30. In a number of instances of apparent excessive use of force documented in the present and previous reports, the Israeli security forces reportedly launched investigations. However, little information is available on such investigations. OHCHR is not aware of any charges being brought or of any indictments issued related to excessive use of force during the reporting period. With regard to the only recent indictment and sentence for excessive use of force by an Israeli security forces soldier, on 27 September 2017, the Chief of Staff of the Israel Defence Forces announced his decision to reduce by 4 months the 18-month sentence handed down in the case of Sergeant Elor Azaria in January 2017. Sergeant Azaria's sentence for the unlawful killing of a wounded Palestinian, which may amount to an extrajudicial execution, was already excessively lenient given the gravity of the offence.[35] Furthermore, it was inconsistent with sentences imposed on Palestinian offenders for comparable offences in recent years. The decision to reduce Sergeant Azaria's sentence further undermines Palestinians' confidence in the Israeli military justice system and reinforces the culture of impunity.[36]

31. Access to justice and accountability for Gazan victims of international human rights law and international humanitarian law violations remained limited due to restrictive Israeli legislation on State liability and the statute of limitations, the required payment of considerable court guarantees and the ban on the entry of Gazans into Israel in order to attend legal proceedings.[37]

32. There were no official updates on the status of criminal complaints related to the escalation of hostilities in Gaza in 2014.[38] Appeals submitted by Palestinian human rights organizations regarding cases in which criminal investigations were either closed or not opened at all, are still pending before the Israeli courts.[39] These include cases of violations that may amount to war crimes, such as the shelling of a location near a United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) school serving as a shelter for civilians in Rafah, which caused the death of 15 persons, including 7 children,[40] and the case of 4 children killed by a shell while playing on a beach.[41]

Restrictions on the rights to the freedoms of expression, association and peaceful assembly

33. Israel pursued legislative and policy measures that negatively affected the rights to the freedoms of expression, association and peaceful assembly of those working to defend human rights in the Occupied Palestinian Territory. In March 2017, the Knesset approved an amendment to the Entry Into Israel Law, prohibiting the entry into Israel of any foreigner who publicly calls for a boycott of Israel or any area under its control.[42] For

[33] International Covenant on Civil and Political Rights, art. 17.

[34] Fourth Geneva Convention art. 27; A/HRC/34/38, para. 13.

[35] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21221&LangID=E.

[36] See A/HRC/35/19, paras. 17–18.

[37] See ibid., para. 18; CERD/C/ISR/CO/14-16, para. 27; and A/71/364, para. 40.

[38] See A/72/565, para. 56.

[39] Decisions remain pending on 19 cases submitted by the Palestinian Centre for Human Rights and 3 by the Al Mezan Center for Human Rights and the Legal Centre for Arab Minority Rights in Israel.

[40] Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1, para. 440; see also the appeal presented before the Attorney-General of Israel in October 2016 by the Legal Centre for Arab Minority Rights in Israel and the Al Mezan Center for Human Rights. Available from www.adalah.org/uploads/uploads/UNRWA_Rafah_Appeal_Final.pdf (in Hebrew).

[41] See A/HRC/28/80/Add. 1, para. 36; and Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1, paras. 630–633.

[42] Amendment No. 27 to the Entry into Israel Law (No. 5712-1952).

example, in October 2017, the amended law was reportedly used to block the entry into the Occupied Palestinian Territory of an employee of Amnesty International USA.[43] While each country has the right to control entry into its territory, the amended law raises concerns with regard to restrictions on the freedoms of thought, opinion and expression.

34. The Knesset also continued to promote measures hampering the financing and functioning of NGOs, including conditioning the receipt of volunteers on a minister's approval and denying tax benefits to organizations that "act against the interests of Israel".[44]

35. Arrests, intimidation and harassment of human rights defenders continued. Several Palestinians were detained by the Israeli authorities and, in some cases, subjected to legal proceedings related to peaceful activities, including with regard to peaceful protests denouncing or opposing human rights violations, the occupation, or the settlement enterprise.[45] Several Israeli and Palestinian human rights organizations reported to OHCHR that they continued to experience severe harassment, including through social media, aimed at discrediting and delegitimizing their work and the character of those working for them. Pressure has been particularly severe on organizations working to bring about international criminal accountability for violations of human rights and humanitarian law.[46]

36. Media outlets also came under pressure, including through what appears to have been an instance of excessive use of force. On 16 August 2017, the Israeli security forces shot and wounded a 33-year-old Palestinian journalist working for Palestine TV. He was hit in the face by a rubber-coated bullet fired from approximately 50 m away while filming an Israeli security forces raid on the village of Kubar.[47] Consistent with information gathered through OHCHR monitoring, video footage of the incident shows the soldier pointing his gun at the journalist, despite the latter wearing a vest clearly identifying him as a member of the press and the situation surrounding the shooting being calm. No elements justifying the use of such force were apparent.[48]

Restrictions on the freedom of movement and on the enjoyment of economic, social and cultural rights

37. Palestinians' freedom of movement continued to be significantly restricted by a complex and multilayered system of administrative, bureaucratic and physical constraints, including permit requirements, checkpoints and physical obstacles, affecting all aspects of everyday life. Existing restrictions and practices affecting freedom of movement, including the 10-year blockade of Gaza, are described in previous reports of the High Commissioner and the Secretary-General.[49]

38. The approval rate of applications for Israeli exit permits from Gaza decreased from 72 per cent during the previous reporting period to 32.8 per cent during the reporting period, with a larger number of outstanding applications pending security review than previously.[50] Restrictions on movement in and out of Gaza on the grounds of undefined "security reasons" also severely affected United Nations and humanitarian personnel.

39. In May 2017, new movement restrictions were implemented in the Israeli-controlled H2 zone of Hebron, reportedly following the attempted stabbing of an Israeli security

[43] See www.amnesty.org/en/latest/news/2017/10/israel-denies-entry-to-amnesty-international-staff-member/.

[44] National service law, enacted in March 2017, and the proposed income tax ordinance (Institution acting for the benefit of the State of Israel) before the Knesset as at 31 October 2017.

[45] OHCHR monitoring.

[46] See A/HRC/36/31, paras. 38–39.

[47] The Secretary-General previously raised concerns about the frequent and often unwarranted use of rubber-coated metal bullets, including at short-range, and directed at the upper body. See A/71/364, para. 16 and A/HRC/31/40, para. 26.

[48] OHCHR monitoring.

[49] See A/HRC/31/44, paras. 12–31 and A/HRC/34/38, paras. 62–68.

[50] Palestinian General Authority for Civil Affairs communications to OHCHR, 16 and 18 October 2016 and 26 November 2017.

forces soldier by a Palestinian. Two checkpoints were reinforced and a new fence was installed around the Palestinian neighbourhoods of As-Salaymeh and Gheith. The fence further separates up to 1,800 Palestinians from the rest of the city, forces residents to take long alternative routes that are inaccessible to elderly persons and persons with disabilities and severely limits residents' access to services. The gate is operated irregularly and had become a flashpoint for settler harassment and violence in the last few months of the reporting period, increasing tension and friction in the area.[51]

40. The failure of Israel to protect Palestinians in accordance with its obligation, as the occupying Power, to uphold public life order and safety,[52] and the numerous restrictions on freedom of movement have had a severe impact on the enjoyment of economic, social and cultural rights and of the right to family life in the Occupied Palestinian Territory.

41. The blockade and closures continued to be the main drivers of Gaza's humanitarian crisis and severely undermined the realization of nearly all economic and social rights. This situation was exacerbated by Palestinian measures described in paragraphs 62–64 below. With regard to the right to an adequate standard of living and the right to work, Gazan exports and imports remained well below the pre-blockade levels, estimated as of late October 2017 at nearly 32 per cent and 92 per cent respectively.[53] Restrictions on Gazan imports and exports continued to stifle economic recovery and employment opportunities, with unemployment reaching 46.6 per cent between July and September 2017.[54] At the end of the reporting period, nearly 80 per cent of the population were reportedly relying on aid provided by humanitarian organizations to survive.[55] Although notable progress in reconstruction efforts was made, some 24,600 individuals who had been displaced as a result of the destruction of, or severe damage inflicted upon, their homes during the hostilities of 2014, remained displaced at the end of the reporting period.[56]

42. Standard of living, economic growth and employment prospects in the West Bank continued to be directly undermined by the restrictions on movement and limitations on access to land, natural resources and construction. Restrictions on Palestinians' access to agricultural land and to critical natural resources in Area C remained in place and markets in occupied East Jerusalem remained out of reach, severely curbing livelihood opportunities.[57] The unemployment rate in the West Bank stood at 19 per cent in the third quarter of 2017, in comparison to 4.2 per cent in Israel as of October 2017.[58]

43. The realization of the right to education remained severely compromised due to violence and armed search operations in schools, harassment, intimidation and violence towards students and teachers on the way to and from school, a severe shortage of classrooms and demolition or stop work orders on school buildings. In Gaza, about two thirds of schools (including UNRWA schools) were forced to operate double shifts, with large numbers of children studying in darkened classrooms due to the prevailing electricity crisis.[59]

44. The right to health also remained undermined, as primary health-care clinics and hospitals across the Occupied Palestinian Territory struggled to function and provide services due to prolonged electricity cuts and chronic shortages of stocks of vital medicines, equipment and supplies, including fuel.

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[51] See www.ochaopt.org/content/further-restrictions-palestinian-movement-israeli-controlled-h2-area-hebron-city; and OHCHR monitoring.

[52] Regulations respecting the Laws and Customs of War on Land, arts. 43 and 46.

[53] See www.ochaopt.org/content/gaza-crossings-operations-status-monthly-update-october-2017.

[54] See www.pcbs.gov.ps/site/512/default.aspx?lang=en&ItemID=2904.

[55] See www.worldbank.org/en/country/westbankandgaza/overview.

[56] See www.sheltercluster.org/sites/default/files/docs/one_page_factsheet_october_2017.pdf.

[57] See www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_554441.pdf.

[58] See www.pcbs.gov.ps/site/512/default.aspx?lang=en&ItemID=2904 and https://tradingeconomics.com/israel/unemployment-rate.

[59] See, for example, www.unicef.org/oPt/media_12204.html.

45. Moreover, restrictions on movement severely affected access to health care. Out of the 26,986 applications for permits to exit Gaza submitted on behalf of patients during the reporting period, 867 (3.2 per cent) were denied and 12,075 (44.7 per cent) were delayed.[60] The World Health Organization reported that dozens of patients died while waiting for their applications to be granted or after their applications had been denied.[61]

46. For example, on 17 April 2017, a 5year-old girl with hydrocephalus died while her permit application was still pending under security review, following two previous unsuccessful exit applications. In another case, a 45-year-old woman suffering with breast cancer since 2011 missed five medical appointments in the West Bank between February and June 2017, as her permit applications remained under security review, even though she had been granted exit permits on previous occasions. She died on 8 June 2017.

47. Reports of pressure exercised on patients to obtain security information as a precondition for the granting of access to health care also gave cause for concern. In February 2017, a 36-year-old woman suffering from cancer was denied permission to exit Gaza and missed her appointment in an East Jerusalem hospital. She had been granted an exit permit but refused to provide the members of the Israeli security forces manning the Beit Hanoun/Erez border crossing point with information on a relative allegedly affiliated with an armed group.[62]

48. In the West Bank, Israeli restrictions on movement, especially in areas affected by the Wall and checkpoints, and delays in related coordination continued to place severe limits on access to health services. Across the Occupied Palestinian Territory, Palestinian ambulances and medics were, on several occasions, prevented from carrying out their work or were directly attacked. The Palestine Red Crescent Society reported that, during the reporting period, their ambulances were delayed on 16 occasions, prevented from reaching their destination in 3 instances and from providing first aid to injured Palestinians on 14 occasions and directly attacked 9 times. The Israeli security forces wounded six Palestine Red Crescent Society medics and volunteers.[63]

B. Palestinian authorities

Violations of the rights to life and security of person

49. The Palestinian security forces appeared to use excessive force to disperse peaceful assemblies and detained participants on several occasions.[64] In one of the cases monitored by OHCHR, on 12 March 2017, in Al-Bireh, the Palestinian security forces violently assaulted both protesters and journalists and broke equipment used by reporters covering a peaceful protest. A commission of inquiry established by the Palestinian Authority found that the use of force by the Palestinian security forces had been unjustified. It recommended several legal and policy measures to bring the regulations governing the use of force by the Palestinian security forces into line with international standards. It also recommended disciplinary action against the Chief of Police and the commander of the police unit responsible. The implementation of the recommendations was ongoing as of 31 October 2017.

50. Concerns regarding excessive use of force by the Gaza security forces were reported, including in the context of protests. On 12 January 2017, the Gaza security forces forcibly dispersed a protest over the electricity crisis in Jabalia. The protest was organized in response to calls made on social media and escalated into stone-throwing at the premises of the Gaza Electricity Distribution Corporation. The riot police fired live ammunition into the air to disperse protesters and assaulted some with batons. Seven people, including two

[60] See www.emro.who.int/pse/publications-who/monthly-referral-reports.html.
[61] Ibid.
[62] OHCHR monitoring.
[63] Information provided by the Palestine Red Crescent Society to OHCHR, 13 December 2017.
[64] OHCHR monitoring.

journalists, were referred to hospitals for medical treatment due to injuries. An undetermined number of protesters were also briefly detained by the Gaza security forces.[65]

51. In another incident documented by OHCHR, a 24-year-old photojournalist was shot and wounded by the Gaza security forces, on 4 April 2017, while covering a police raid on a protest tent in Beit Lahiya. The victim was seriously wounded in the leg, having been shot at close range in circumstances that did not appear to constitute a threat to the lives of the security officers concerned.[66]

Death penalty

52. Six individuals were executed by the Gaza authorities during the reporting period, three on 6 April 2017 and three on 24 May 2017. The latter three were sentenced to death by a special field military court, on 15 May 2017, for involvement in the killing of Hamas leader Mazen al-Faqhaa. The executions raise serious concerns about the extent to which the trials conducted by this court in particular, and by military courts in general, met the minimum international fair trial standards. The three defendants were reportedly denied access to legal representation, subjected to ill-treatment and torture and signed confessions under duress. Furthermore, they were convicted of treason, which does not meet the threshold for "most serious crimes".[67] Their executions may amount to extrajudicial killings and, consequently, the arbitrary deprivation of life.[68]

53. During the reporting period, Gaza courts, including military courts, upheld 14 sentences on appeal and handed down 18 new sentences, including those mentioned above.[69]

54. All six executions were carried out without the approval of the Palestinian President, in violation of Palestinian law, and denying the defendants the right to be considered for pardon or commutation of sentence, as foreseen by international human rights law.

Arbitrary detention, torture or other cruel, inhuman or degrading treatment

55. Arbitrary arrests and detention by the Palestinian security forces and the authorities in Gaza remained a major concern and the issue is examined in detail in the report of the High Commissioner to the Human Rights Council on the Human Rights situation in the Occupied Palestinian Territory, including East Jerusalem (A/HRC/37/42).

56. During the reporting period, the Palestinian Independent Commission for Human Rights registered 511 complaints alleging torture or ill-treatment in Palestinian detention facilities, 263 in the West Bank and 248 in Gaza. While this number refers to complaints and not to verified incidents, OHCHR monitored and documented allegations of ill-treatment and torture both in the West Bank and in Gaza, which are of grave concern and are consistent with the practices reported in the complaints lodged with the Palestinian Independent Commission for Human Rights.

57. For instance, in February 2017, in Tulkarm, a 38-year-old news editor was arrested by the General Intelligence Service and accused of inciting sectarianism. He was initially released on bail by the first instance court but was immediately rearrested without a further arrest warrant. He was transferred to the Jericho central interrogation detention centre of the General Intelligence Service, where he was allegedly subjected to physical and psychological torture that was aimed at forcing him to confess. He claims that he was forced to stand blindfolded and shackled, with his arms tied behind his back, suspended

[65] OHCHR monitoring.

[66] OHCHR monitoring.

[67] International Covenant on Civil and Political Rights, art. 6 (2) and the safeguards guaranteeing protection of the rights of those facing the death penalty, as approved by the Economic and Social Council in its resolution 1984/50, which provide that the scope of "most serious crimes" should not go beyond intentional crimes with lethal or other extremely grave consequences.

[68] International Covenant on Civil and Political Rights, art. 6 (1).

[69] Human Rights Committee, general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 22.

from the ceiling by his wrists, beaten with a plastic hose on the soles of the feet and pressured with threats to disclose harmful information about his family. He was not allowed to see a lawyer for a period of 14 days and was denied access to adequate health care. He was eventually released following a plea bargain agreed on by his lawyer with the prosecutor, pleading guilty to the charges. He was sentenced to three and a half months' imprisonment, which was commuted to a fine.[70]

Restrictions on the rights to freedoms of expression, association and peaceful assembly

58. The reporting period was marked by the shrinking of civic space in the West Bank and Gaza, with restrictions being placed on the rights to freedoms of expression, association and peaceful assembly.

59. On 15 June 2017, through direct orders to Internet service providers, the Palestinian Attorney-General closed 27 websites hosting content seen as critical of the Palestinian Authority.[71] As of 31 October 2017, these websites remained offline.

60. On 24 June 2017, President Mahmoud Abbas issued a decree on cybercrimes, containing several provisions severely restricting freedom of expression and the right to privacy, as well as overly broad provisions.[72] The decree was prepared without prior consultations with key stakeholders and despite the Government's promise to review it following an outcry from civil society, including the Palestinian Journalists Syndicate. It immediately entered into force following its publication in the Official Gazette, on 9 July 2017, despite a the Palestinian Authority simultaneously agreeing to review the decree with the participation of civil society and the Independent Commission for Human Rights and with technical advice from OHCHR. As at the end of the reporting period, the decree was under review but remained in force.

61. Several journalists, activists and human rights defenders were summoned by the Palestinian security forces or detained for exercising their right to freedom of expression, including on the basis of the presidential decree on cybercrimes, raising concerns about arbitrary detention.

62. For instance, on 6 July 2017, a 28-year-old journalist was arrested by the Palestinian security forces at an Israeli checkpoint while photographing a Palestinian minister's convoy as it passed. The journalist was accused of suspicious behaviour and released after three days without charge.[73] On 8 August 2017, six journalists were arrested across the West Bank under the new decree, allegedly accused of leaking sensitive information to enemy parties. They were all eventually released without charge.[74] There are strong indications that they were arbitrarily arrested and detained.[75] Another case of concern was the arrest and detention of a well-known human rights defender, Issa Amro, on 4 September 2017.[76]

63. Despite a slight decline in reported incidents related to freedom of expression,[77] the Gaza security forces continued to harass journalists and social media activists expressing critical views of the authorities in Gaza. Several journalists and social media activists were arrested by the Gaza security forces, briefly detained, abused in detention and then released without being officially charged.[78] On 4 June 2017, a journalist was sentenced, in absentia, and without legal representation, to six months' imprisonment and fined 1,000 new shekels

[70] OHCHR monitoring.

[71] The websites allegedly belonged to supporters of Mohammad Dahlan, a Fatah-faction leader in Gaza, Hamas or Islamic State in Iraq and the Levant. OHCHR monitoring.

[72] Presidential Decree No. 16 of 2017.

[73] OHCHR monitoring.

[74] OHCHR monitoring.

[75] See A/HRC/37/42, para. 52.

[76] See A/HRC/37/42, para. 51.

[77] The Palestinian Centre for Development & Media Freedoms noted a decrease in the number of violations of the right to freedom of expression, from 46 during the previous reporting period to 30 during the reporting period. See www.madacenter.org/reports.php?s=0&p=13&id=13&lang=1&year=.

[78] A/HRC/37/42, paras. 43–45 and 53–54.

for impersonation, defamation, lack of objectivity and circulating fabricated news. The charges were based on an article she had published in 2016 exposing corruption in the medical referral system in Gaza.[79]

Restrictions on freedom of movement and the enjoyment of economic and social rights

64. From March 2017, adding to the already dire situation caused by the blockade of Gaza, the Palestinian Authority adopted several measure that placed pressure on the authorities in Gaza against the backdrop of a widening political division. These measures included the reduction of salaries and the placement of thousands of employees of the Palestinian Authority in Gaza on early retirement, thereby weakening already financially vulnerable households. The reduction of payments to Israel for electricity provided to Gaza led to a drastic drop in the electricity supply from the already inadequate levels caused by the Israeli blockade. Over the summer months, Gaza was receiving two to no more than six hours of electricity a day. The power shortage left critical installations, such as wastewater treatment plants and hospitals, reliant on backup generators and fuel provided through humanitarian assistance.

65. The Palestinian Authority also reduced the budget allocated to the health sector in Gaza and the percentage of items on the essential drug list that were at zero stock levels increased from 33 per cent in March to 45 per cent in October 2017.[80] A steady decrease in the number of medical referrals for patients from Gaza approved by the Palestinian Authority was reported, from 2,190 in March to 447 in June 2017. The situation improved somewhat towards the end of the reporting period, with the number of medical referrals approved by the Palestinian Authority reaching 1,297 and 1,077 in August and September respectively. However, it remained well below the previous monthly average of over 2,000 referrals.[81]

66. As part of the reconciliation agreement signed on 12 October 2017 between the main Palestinian factions, Hamas and Fatah, the Palestinian Authority committed to lifting the above-mentioned restrictions. The agreement also envisaged that the Palestinian Authority would take control of Gaza's crossings on 1 November 2017, reassuming full security and civil control over Gaza by 1 December 2017, and would integrate Hamas civil servants into Palestinian Authority institutions by no later than February 2018.[82] However, the restrictions remained in place and the population of Gaza continued to struggle to cope with around four hours of electricity per day and depleted basic services during the reporting period. The restrictions exacerbated the profound sense of isolation and hopelessness among Gazans.

IV. Conclusions and recommendations

67. The present report documents violations of international humanitarian law by the duty bearers, and violations of international human rights law in the Occupied Palestinian Territory by the Government of Israel, the Palestinian Authority and the authorities in Gaza. It confirms patterns of violations previously reported by the Secretary-General and the High Commissioner. In addition to the grave nature of these violations, the persistent lack of accountability and the shrinking space for media and human rights defenders are of particular concern.

68. All previous recommendations made by the Secretary-General, the High Commissioner for Human Rights and the United Nations human rights treaty bodies remain pertinent. In particular, the High Commissioner makes the recommendations set out below.

69. The High Commissioner recommends that the Government of Israel:

[79] OHCHR monitoring.

[80] See www.ochaopt.org/content/gaza-crisis-early-warning-indicators-november-2017.

[81] See www.emro.who.int/pse/publications-who/monthly-referral-reports.html.

[82] Those officials recruited by Hamas after 14 June 2007.

(a) Ensure that all incidents in which security personnel, including members of the Israel Defence Forces, kill or wound any Palestinian, including in Gaza's "access restricted areas", be promptly subjected to thorough, independent, impartial and effective criminal investigations;

(b) Immediately end all practices of collective punishment, in particular, immediately lift the blockade of Gaza and allow free movement of Palestinians across the Occupied Palestinian Territory, ensure that any restrictions on the transfer of goods to and from Gaza are consistent with international law, with due regard to legitimate security needs, and respect international humanitarian law and international human rights law;

(c) Conduct prompt, thorough, independent and impartial investigations into allegations of violations related to past escalations of hostilities, hold those responsible accountable and ensure redress for victims;

(d) Ensure that the rules of engagement of the Israeli security forces and their application are in line with international standards;

(e) Ensure that firearms are only used in cases of imminent risk of death or serious injury and never as a crowd-control measure, take all necessary measures to prevent incidents of excessive use of force, in particular, regulating the use of live ammunition and adopting appropriate disciplinary and corrective sanctions for security force members who do not respect such regulations, and ensure that security force members are adequately equipped with and trained in the use of non-lethal weapons;

(f) Ensure that assistance and medical aid are provided to any injured or affected persons at the earliest possible moment.

(g) End the practice of administrative detention and ensure that all administrative detainees are promptly charged, if relevant, or released, and that the rights of all those deprived of their liberty are respected, particularly all rights inherent to a fair trial, including the right to defence;

(h) Ensure that conditions of detention are in accordance with international human rights law, that detainees are not subjected to torture or ill-treatment and that any allegations of torture or other ill-treatment are promptly, thoroughly and effectively investigated by an independent and impartial body;

(i) Ensure that all children under the age of 18 years are treated with due consideration for their age and that they are detained only as a last resort and, if so, for the shortest possible time and with a view to their rehabilitation;

(j) Ensure that human rights defenders and journalists are respected, protected and permitted to conduct their activities safely, freely and without harassment.

70. The High Commissioner recommends that the Government of the State of Palestine:

(a) Ensure that it fully discharges its human rights obligations towards Palestinians in Gaza and immediately lifts any measures that compound the impact of the Israeli blockade on residents of the Gaza Strip;

(b) Ensure that the reconciliation process is continuously accompanied by, and anchored in, respect for international law and that all institutional and legal reform are guided by the human rights obligations of the State of Palestine;

(c) Announce a formal moratorium on executions;

(d) Ensure that the code of conduct regulating the use of force in the context of law enforcement operations and its application are consistent with international human rights standards;

(e) Ensure that allegations of human rights violations are promptly subjected to thorough, independent, impartial and effective criminal investigation;

(f) End arbitrary detention, including the practices of repeated detention and administrative detention in lieu of criminal charges and either charge or release all individuals curreatly held in such a manner and immediately end all practices that may amount to ill-treatment or torture;

(g) Respect, protect and fulfil the rights to freedoms of expression and peaceful assembly and remove all unlawful restrictions on freedom of expression from statutory law.

71. The High Commissioner recommends that the authorities in Gaza:

(a) Ensure, along with the Palestinian armed groups in Gaza, respect for international humanitarian law, particularly the principles of distinction, proportionality and precaution, and ensure accountability for grave violations through appropriate investigations and hold perpetrators accountable;

(b) Announce and implement an immediate moratorium on the use of the death penalty and cease the practice of trying civilians before military courts;

(c) End the arbitrary arrest and detention of individuals and immediately end all practices that may amount to torture or ill-treatment;

(d) Ensure that all allegations of torture, ill-treatment and death in custody are promptly, impartially and independently investigated, and that those responsible are brought to justice;

(e) Respect and protect the rights to freedoms of expression, association and peaceful assembly, including the right of NGOs and media personnel to conduct their activities safely, freely and without harassment.